

### **REMARKS**

Entry of the foregoing amendments is respectfully requested. Claim 13 has been amended. Claim 14 has been canceled. New claims 21-22 have been added. Claims 13, and 15-22 are currently pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

### **Rejections Based On the Prior Art**

#### **1. Rejections of Claims 13-20 Under 35 U.S.C. §102(e)**

In the Office Action the Examiner has finally rejected claims 13-20 under 35 U.S.C. §102(e) as being anticipated by Allison et al. U.S. Patent No. 6,478,830 (the '830 patent).

Applicant respectfully traverses the Examiner's rejections to claims 13-20 based on the '830 patent. More specifically, with this response applicant has amended claim 13 to specify that the thixotropic thickener is formed of about 2 percent to about 30 percent of a triblock copolymer and about 70 percent to about 98 percent of a hydrocarbon oil, which is subject matter originally presented now in canceled claim 14.

In contrast, the '830 patent discloses a composition including a hydrocarbon oil, at least one copolymer, and at least one derivative of an N-acyl amino acid. The product of claim 13 includes a petroleum distillate, and a thixotropic thickener including a triblock copolymer and a hydrocarbon oil. The N-lauroyl glutamine acid di-N-butylemide, which is acknowledged by applicant as an N-acyl amino acid derivative, is not part of the thickener, and is only disclosed in the application as a substitute thickener for the triblock copolymer and hydrocarbon oil thickener composition and is not present in the product of claim 13.

Therefore, in applicant's opinion the subject matter of amended claim 13 is neither shown nor described in the '830 patent. As a result, applicant believes that claim 13, as well as claims 15-20 which depend from claim 13, are allowable and respectfully requests that the Examiner withdraw the rejections to claims 13, and 15-20.

## 2. Rejections of Claims 13-20 Under 35 U.S.C. §102(b)

In the Office Action the Examiner has finally rejected claims 13-20 under 35 U.S.C. §102(b) as being anticipated by Saito et al. U.S. Patent 3,969,087 (the '087 patent).

Applicant respectfully traverses the Examiner's rejections to claims 13-20 based on the '087 patent. More specifically, as discussed previously, applicant has amended claim 13 to specify that the product includes a petroleum distillate and a thixotropic thickener including a triblock copolymer and a hydrocarbon oil.

In contrast, similarly to the discussion regarding the '830 patent, the '087 patent discloses gels formed of non-polar liquids which include N-acyl amino acids and derivatives thereof as gelling agents in order to gel the non-polar liquids and increase the ease of handling such liquids. The disclosure and teaching of gelling the non-polar liquids in the '087 patent does not include the composition of claim 13 in which the shear-thinning thickener is formed of a triblock copolymer and a hydrocarbon oil.

Therefore, also similarly to the discussion regarding the '830 patent, in applicant's opinion the subject matter of amended claim 13 is neither shown or described by the '087 patent. Therefore, applicant believes that claim 13, and claims 15-20 which depend from claim 13, are allowable and respectfully request that the Examiner withdraw the rejections to claims 13-20.

## 3. New Claim 21

With this response, applicant has added new independent claim 21 that covers a petroleum distillate product including a petroleum distillate and a thixotropic thickener that consists essentially of a triblock copolymer and a hydrocarbon oil. Similarly to applicant's opinion that claim 13 is allowable over the '830 patent and the '087 patent based on the composition of the thixotropic thickener including a triblock copolymer and a hydrocarbon oil, which applicant has also claimed in claim 21, applicant believes the subject matter of claim 21 is not disclosed in the '830 patent or the '087 patent.

More specifically, the '830 patent discloses a composition which includes a hydrocarbon oil, at least one copolymer, and at least one derivative of an N-acyl amino acid. Thus, the '830 patent discloses the combination of the copolymer and the N-acyl amino acid in the composition, which as disclosed in the specification on page 5, line 25-page 6, line 8 and in claim 14, are recited only as alternative thickeners to be used in place of each other, as opposed to being utilized in conjunction with one another. Thus, the '830 patent does not anticipate the subject matter of claim 21 in applicant's opinion, such that claim 21 is allowable over the '830 patent.

Furthermore, with reference to the '087 patent, this patent discloses only the use of N-acyl amino acid or a derivative thereof as a gelling agent. There is no mention of a thickener comprising the combination of a triblock copolymer and a hydrocarbon oil. Thus, for this reason, applicant also believes that the subject matter of claim 21 is not disclosed in the '087 patent, such that claim 21 is allowable in view of the '087 patent

#### 4. New Claim 22.

New claim 22 added with this response depends from independent claim 21 and further specifies that the thickener includes the triblock copolymer and the hydrocarbon oil in rates of between 1:50 and 1:2.

For the same reasons regarding the allowability of claim 21, and due to the dependency of claim 22 from claim 21, applicant also believes that claim 22 is allowable over the '830 patent and the '087 patent.

### **CONCLUSION**

It is submitted that claims 13 and 15-22 are in compliance with 35 U.S.C. §102 and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

A check in the amount of \$910.00 is enclosed for the filing fee for the Request for Continued Examination and for a one-month extension of time to respond to the final Office Action. No additional fees are believed to be payable with this communication. Thus, should the Examiner consider any other fees to be payable in conjunction with this or any future

communication, the director is authorized to charge any fee or credit any overpayment to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite the prosecution and allowance of this application.

Respectively submitted,



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